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GENERAL COUNSEL'S OPINION NUMBER 55-17, DATED 16 MAY 1955

Cost of non-Government quarters at training facility is not reimbursable where per diem is authorized.

TO THE DIRECTOR OF TRAINING

1. Mr. E.D.E., by his memorandum of 7 February 1955 addressed to you, transmitted his travel voucher in connection with his assignment to

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[redacted]
Office of Training. Among other items Mr. E. claims per diem at the rate of \$7.20, instead of the maximum \$9.00, and in lieu of the difference in per diem rates claims reimbursement for the cost of quarters; in support of this claim he notes that residence "in school dormitories is mandatory". It is also pointed out that per diem claimed has been "reduced by \$72.00 during 8 days duty at Headquarters, even though his quarters costs and subsistence expenses continued [redacted] The Office of Training requests our views as to the propriety of this claim.

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2. Although there is general authority in the regulations for the reduction of per diem in certain cases, this authority is limited to cases of "personnel who use United States Government-operated messing and billeting facilities while on temporary duty at a post or posts" [redacted], a factual situation not involved in the E. claim.

3. Specific authority with respect to expenses in connection with special instruction or training for Agency personnel is found in Section 4 of the Central Intelligence Agency Act of 1949. Section 4(a) authorizes the assignment of Agency personnel to non-CIA installations "for special instruction, research, or training", and Section 4(b) authorizes expenditures as follows:

"The Agency shall, under such regulations as the Director may prescribe, pay the tuition and other expenses of officers and employees of the Agency assigned or detailed in accordance with provisions of subsection (a) of this section, in addition to the pay and allowances to which such officers and employees may be otherwise entitled."

Section 4 is implemented by [redacted] of which authorizes the Director of Training to:

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"Determine the amount of and provide funds necessary to meet the costs of registration, tuition, laboratory fees, travel and per diem, and other appropriate expenses, except salary, directly related to each training action approved under this Regulation."

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25X1A Since the statute includes among the expenses which the Agency may pay
25X1A "allowances to which such officers and employees may be otherwise en-
titled", and [] otherwise entitles personnel to per diem in lieu of
subsistence, it seems inescapable that neither the statute nor the regu-
lation which implements it [] authorizes payment for quarters.
Nor can this conclusion be different in the case of mandatory residence
in the dormitories. (On this point, a publication of []

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panies who send personnel to attend the Program "insist on their repre-
sentatives residing in the School dormitory reserved for the []

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25X1A [] and that most "men have found the association with
other members of the course gained by living in a dormitory highly
beneficial and desirable" (p. 9)). The fact that dormitory residence
may have been required, regardless of the reasoning behind the require-
ment or the benefits expected or gained from such residence, does not
alter the fact that the expenditure involved is for quarters, for which
compensation is provided in the form of per diem.

4. That per diem claimed was reduced "during 8 days duty at
Headquarters, even though his quarters costs and subsistence expenses
continued at Boston", while indicating a degree of hardship, is not a
factor pertinent to the instant claim.

5. It is the opinion of this office, therefore, that the E.
claim for cost of quarters should be disallowed, as presented. Per
diem can thus be claimed and allowed at the usual rate. The file is
returned herewith.

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LAWRENCE R. HOUSTON
General Counsel

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